IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6643 OF 2004

Parvati Ganga Sailoo — Petitioner
vs.
Union of India & ors. — Respondents

Mr.S.N. Kantawala i/b. Mr.Yogesh Rohira for the petitioner.

Mr.A.J. Rana, senior counsel along with Mr.H.V. Mehta i/b. Mr.T.C. Kaushik for respondents 1 to 3.

CORAM : R. M. LODHA &
J.P. DEVADHAR,JJ.

DATED : 15th September 2004

P.C.

Heard.

2. On 16th August 2004 we issued rule in the writ petition. Rule on stay was also issued, returnable after eight weeks and in the meanwhile, we directed that subject to petitioner's furnishing bank guarantee in the sum of Rs. 5 lacs with respondent no.3 to satisfy the order that may ultimately be passed in the adjudication proceedings and subject to payment of entire customs duty, the seized car being Toyota Landcruiser chasis no.UZ-100-0103349 be released on provisional basis.

3. We are informed that pursuant to the aforesaid interim order, the petitioner had furnished bank guarantee in the sum of Rs. 5 lacs and also paid the

entire customs duty. However, the respondents 2 and 3 did not release the car for the reasons set out in the affidavit of Dr.G.V.Krishna Rao, Deputy Commissioner of Customs dated 13th September 2004.

4. Having perused the affidavit of the Deputy Commissioner of Customs dated 13th September 2004, we are of the view that the release of the car on provisional basis as directed by us vide order dated 16th August 2004 shall not be proper.

5. We, accordingly, recall paragraph 5 of the order dated 16th August 2004.

6. Paragraph 5 of the order dated 16th August 2004 having been recalled, we direct that the respondent no.3 shall return the bank guarantee in the sum of Rs.5 lacs furnished by the petitioner and so also the customs duty paid by him forthwith.

7. We record and accept the statement of the learned senior counsel for the revenue that show cause notice under section 28 read with section 124 of the Customs Act, 1962 shall be given to the petitioner within ten weeks from today. Order accordingly.

8. We also record the statement of the learned counsel

for the petitioner that the petitioner or his authorised representative shall appear before the concerned authority as and when required and the summons of the petitioner can be served upon Mr.Yogesh Rohira, advocate for the petitioner.

9. At this stage, the learned counsel for the petitioner prays for withdrawal of the writ petition.

10. Allowed to be withdrawn. No costs.

(R.M. LODHA, J.)

(J.P. DEVADHAR,J.)